

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL ROGERS,

Plaintiff,

v.

DOUG WADDINGTON, *et al*,

Defendants.

Case No. C05-5231FDB/KLS

ORDER DENYING MOTION FOR
PERSONAL SERVICE

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 1, 3 and 4. Plaintiff seeks to have the U.S. Marshal personally serve Defendant Bryon Jamtaas. (Dkt. # 47). Upon review of Plaintiff's motion and the file, the Court finds for the reasons stated herein, that the motion should be denied.

DISCUSSION

On June 22, 2006, the U.S. Marshal Service made its first service attempt on Defendant Byron Jamtaas at the Stafford Creek Corrections Center, using the name and address provided by Plaintiff. The process form was returned unexecuted with the notation "Person not at provided address." (Dkt. # 44). Plaintiff now moves the Court for an order directing the U.S. Marshall to serve Defendant Jamtaas in person or, in the alternative, that the Marshal Service determine Defendant Jamtaas' current address.

Rule 4(c)(2) provides that a party proceeding *in forma pauperis* is entitled to have the summons and complaint served by the U.S. Marshal. Puett v. Blanford, 912 F.2d 270, 273 (9th Cir. 1990) (citing Romandette v. Weetabix Co., 807 F.2d 309, 310 n. 1 (2nd Cir. 1986)). Similarly, 28 U.S.C. § 1915 (c) provides that in cases in which a court authorizes a plaintiff to proceed *in forma pauperis* the "officers of the court shall issue and serve all process." While a plaintiff may rely on the U.S. Marshal to assist in effecting service, a plaintiff is not relieved of his burden to help effectuate service. A plaintiff must still

1 request service upon the appropriate defendant and attempt to remedy any apparent defects of which a
2 plaintiff has knowledge. Puett, 912 F.2d at 274; Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987).
3 Thus, before a second attempt at mail service or personal service may be considered, Plaintiff must provide
4 an updated service address for Defendant Jamtaas.

5 Accordingly, plaintiff's motion for order for personal service (Dkt. # 47) is **DENIED** at this time.

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7 DATED this 2nd day of October, 2006.

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11 Karen L. Strombom
12 United States Magistrate Judge
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